

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Linda Leisure, :  
 :  
 Plaintiff, :  
 :  
 v. : Case No. 2:05-mc-0061  
 :  
 Chief of Police Jean Miller, : JUDGE SMITH  
 Reynoldsburg Ohio Police :  
 Department, :  
 :  
 Defendant. :

ORDER

As noted in the Court's order issued in this case on October 20, 2005, this miscellaneous case is actually a regular civil action and should have been filed as such. Because it was not, and plaintiff did not pay the full filing fee for a regular civil case, plaintiff was directed to submit the balance of the \$250.00 filing fee or face dismissal.

Prior to the issuance of the Court's order, the defendant filed a motion to dismiss. Rather than responding to either the order or the motion, plaintiff filed a motion to dismiss without prejudice on October 24, 2005. There has been no opposition to that motion.

The improper designation of this action as a miscellaneous case does not preclude the Court from treating it as a regular civil case and applying the Federal Rules of Civil Procedure to it. Under Fed.R.Civ.P. 41(a), a plaintiff may unilaterally dismiss a case at any time before an answer or motion for summary judgment has been filed. Neither has been filed in this case. Therefore, treating plaintiff's motion as a notice of voluntary dismissal, the motion (#7) is GRANTED. This case is DISMISSED

WITHOUT PREJUDICE.

/s/ George C. Smith  
George C. Smith  
United States District Judge